



**STATE OF VERMONT**  
**Vermont Department of Education**  
**120 State Street**  
**Montpelier, VT 05620-2501**

**MEMORANDUM**

**TO:** Educational Leaders

**FROM:** Andy Snyder, Intergovernmental Affairs

**RE:** Legislative Summary

**DATE :** July 13, 2004

The following is a brief review of legislation considered by the General Assembly in the year 2004. This was the second year of the 2003-2004 biennium.

If you wish to see the full text of any education acts, bills, or resolutions, you may do so at the Vermont Department of Education Web site at <http://www.state.vt.us/educ/new/html/mainlaws.html#summary>. Simply access the link for the 2004 Legislative Session. If you need further information regarding any legislation, feel free to contact me at 828-1086 or [asnyder@doe.state.vt.us](mailto:asnyder@doe.state.vt.us). For complete act and bill listings, please reference the Vermont Legislative Web site at <http://www.leg.state.vt.us>.

**Act # 70 (H. 472) An Act Relating to Executive Branch Fees**  
<http://www.leg.state.vt.us/docs/legdoc.cfm?URL=/docs/2004/acts/ACT070.HTM>

Sec. 25 – Amends 16 VSA § 177 increasing the fees for certification of post-secondary schools from \$1, 500.00 to \$2,000.00, except that certification for degree-granting schools shall be increased from \$2,000.00 to \$2,500.00. It also addresses post-secondary schools offering new degrees within a certification period previously granted by the state board. These fees are to be set aside in a special fund and made available to the department to offset the costs of approvals.

**Act # 72 (H. 171) An Act Relating to Establishment of a Trust fund to Provide Aid to Students who are in SRS Custody and Wish to Attend College or University**  
<http://www.leg.state.vt.us/docs/legdoc.cfm?URL=/docs/2004/acts/ACT072.HTM>

This act establishes a trust fund to be used to provide grants for students who do not have parental support and are or have been under the custody of SRS. It establishes parameters for qualifications for grants and appropriates \$25,000 from the general fund to VSAC with the intent to appropriate another \$25,000 in each of the next four fiscal years. The act sunsets on July 1, 2008.

**Act # 73 (S. 255) An Act Relating to Access to Juvenile Proceedings**

<http://www.leg.state.vt.us/docs/legdoc.cfm?URL=/docs/2004/acts/ACT073.HTM>

This Act addresses the notification of conditions of release to victims in delinquency proceedings, victim notification and the rights of victims in delinquency proceedings involving a listed crime.

**Act # 75 (H. 234) An Act Relating to a High School Diploma for Veterans of the Korean War**

<http://www.leg.state.vt.us/docs/legdoc.cfm?URL=/docs/2004/acts/ACT075.HTM>

This act amends 16 VSA §563(25) (high school diplomas for veterans of World War II) to award a high school diploma to any Vermont resident who served in the military during the Korean War, was honorably discharged and does not hold a high school diploma.

**Act # 76 (H. 540) An Act Relating to Education Finance Implementation**

<http://www.leg.state.vt.us/docs/legdoc.cfm?URL=/docs/2004/acts/ACT075.HTM>

This act serves as the technical correction to Act # 68 of 2003. Though most of its content has to do with taxation, Sections 23 – 30 address corrections to small school support grants, apportionment of interstate school districts, unified union districts, and base education payment percentages relating to VAST, adult diploma program and technical education.

**Act # 78 (H. 490) An Act Relating to Repeal of the Governor's Diploma**

<http://www.leg.state.vt.us/docs/legdoc.cfm?URL=/docs/2004/acts/ACT078.HTM>

This act repeals Title 16 VSA § 179 (the Governor's Diploma program). Never implemented and having been delayed for a two year period, the legislature considered this program too costly to implement at this time.

**Act # 80 (H. 585) An Act Relating to Fiscal Year 2004 Budget Adjustments**

<http://www.leg.state.vt.us/docs/legdoc.cfm?URL=/docs/2004/acts/ACT080.HTM>

Sections 47 – 51a address education related budget adjustments going into the 2004 legislative session.

**Act # 83 (H. 183) An Act Relating to Memorial Day**

<http://www.leg.state.vt.us/docs/legdoc.cfm?URL=/docs/2004/acts/ACT083.HTM>

This act establishes that Memorial Day will be a legal holiday in the state of Vermont on the last Monday in May.

**Act # 84 (S. 306) An Act Relating to the Election of Directors of the Southwest Vermont Regional Technical Center School District**

<http://www.leg.state.vt.us/docs/legdoc.cfm?URL=/docs/2004/acts/ACT084.HTM>

This act states that notwithstanding any provision to the contrary, the Southwest Vermont Regional Technical Center School District may determine the length of the initial terms of its

directors according to the number of votes each director receives in the first election of its directors.

**Act # 86 (H. 519) An Act Relating to the Vermont Student Assistance Corporation**  
<http://www.leg.state.vt.us/docs/legdoc.cfm?URL=/docs/2004/acts/ACT086.HTM>

This act refines the grants, scholarship and education loan programs of the Vermont Student Assistance Corporation.

**Act # 91 (H. 113) An Act Relating to Harassment in Schools**  
<http://www.leg.state.vt.us/docs/legdoc.cfm?URL=/docs/2004/acts/ACT091.HTM>

This act amends the existing laws on harassment. It is designed to strike a balance between the litigation rights of aggrieved students and the need for school district officials to be given a reasonable opportunity to hear of the alleged harassment and take appropriate and timely steps to investigate and, if substantiated, address it.

The bill defines “harassment” in a clearer manner than exists under previous law. The new definition requires the act of harassment to have the purpose or effect of “objectively and substantially undermining and detracting from or interfering with a student’s educational performance...or creating an objectively intimidating, hostile, or offensive environment.”

The act requires designated school officials to have “actual” notice of the alleged harassment. It then goes on to provide a roadmap of how schools are supposed to handle reports of harassment. This should assist in bringing a more uniform response around the state and will help with data collection.

The act establishes the standard for school district liability under the Vermont public accommodations law. A school district will be found liable when, after notice of harassment, the district fails to take prompt and appropriate remedial action reasonably designed to stop the harassment. The act also requires a student to exhaust his or her administrative remedies available under the school’s harassment policy before being able to file in court under the Vermont public accommodations law.

This act also encourages alternative dispute resolution to deal with harassment cases and, most importantly, adds a new way of addressing such matters. The “independent review” called for under this law will give students an objective way of finding out how well the school investigated the case and whether the action taken was appropriate. An independent review panel will be developed jointly by the commissioner of education and the human rights commission and maintained by the commissioner of education.

**Act # 107 (H. 756) An Act Relating to Miscellaneous Changes to Education Law**  
<http://www.leg.state.vt.us/docs/legdoc.cfm?URL=/docs/2004/acts/ACT107.HTM>

This act is the annual effort, initiated by the Department of Education, to fix technical problems in education-related statutes that have been identified during the previous year. A brief summary of each provision includes:

Sec. 1 and 2 – Clarifies statutes relating to post-secondary school registration.

Sec. 3 – Supervisory Union Treasurer – This provision clarifies a section of law dealing with the question of whether and under what circumstances a supervisory union treasurer may serve as a treasurer or deputy treasurer for any member school district within the supervisory union.

Sec. 4 – Surplus Funds – This new section of law codifies the longstanding interpretation of the options a school district has when it has a surplus.

Sec. 5 – Union School District Auditor's Report – This provision of law brings into alignment two separate statutes by allowing the annual school board report to contain only a summary of the union school district auditor's report.

Sec. 6 – Union School District Indebtedness – This provision updates the references in the union school provision regarding indebtedness.

Sec. 7 – Informational Meetings for Budget Revotes by Australian Ballot – This provision makes the same changes to the union school section of law as was made for all other municipalities last year in the Help America Vote Act.

Sec. 8 – Grade Range in Unified School Districts – This provision eliminates the possibility of a 1 – 12 unified union school district. Prior to 1984, school districts were not required to operate a kindergarten.

Sec. 9 – Update of Regional Technical Center School District Board Powers and Duties – This provision simply brings the powers and duties of these kinds of boards in line with the powers and duties of school boards generally.

Sec. 10 – School Board Minimum Liability Coverage – Rather than have to seek statutory changes on a frequent basis to continually update this, this will update minimum liability coverage by the Commissioner of Education by rule.

Sec. 11 – This provision effectuates all the necessary statutory changes for the School of Dental Hygiene, which was moved last year from the University of Vermont to the Vermont State Colleges.

Sec. 12 – Codification of Transportation Reimbursement Provisions – For ease of reference, this provision simply codifies the session law transportation reimbursement provisions.

Sec. 13 – Flexibility in Date of Receipt of Budget Data – This provision gives the Commissioner an extra month past the June 15<sup>th</sup> deadline to allow for unusual circumstances regarding submission of local education budget data.

Sec. 14 – Confidentiality of Home Study Student Records – This provision assures the confidentiality of such records.

Sec. 15-17 – These are additional changes necessary to Title 11 regarding post-secondary registration requirements.

Sec. 18 – Extension of “Unusual or Unexpected” Special Education Expenditure Provision – Since the enactment of Act 117, there has been a provision aiding school districts that have unusual or unexpected special education costs. This provision would have sunset this year. Sec. 18 extends the aid for another two years while work is done to amend the special education funding formula with the hope that a new formula will address this concern.

Sec. 18a – Tax Department provisions dealing with erroneous declarations.

Sec. 19 – Extension of Technical Education Pilot Governance Projects – This provision allows for an extension of two more years for at least two of the original technical education pilot governance projects in Vermont.

Sec. 20 – Ratification of the Voting Process Used to Establish the Hannaford Regional Technical Center School District – This provision ratifies the recent vote, despite some procedural irregularities, allows the Commissioner of Education to certify the vote and allows the district to proceed with its business.

Sec. 21 – Repeals – Four statutory provisions that are obsolete and no longer needed are repealed by this section.

Sec. 22 – Effective Dates –Section 10 takes effect on January 1, 2005 to enable the rulemaking process to proceed and Section 20 (Hannaford) takes effect upon passage. All other provisions shall take effect on July 1, 2004.

**Act # 112 (S. 190) An Act Relating to a Vacancy on the Prudential Committee of an Incorporated School District**

<http://www.leg.state.vt.us/docs/legdoc.cfm?URL=/docs/2004/acts/ACT112.HTM>

This Act states that when a vacancy occurs on a prudential committee, the remaining members shall appoint a person to fill the vacancy until the next annual or special meeting.

**Act # 114 (S. 308) An Act Relating to Compliance with the No Child Left Behind Act**

<http://www.leg.state.vt.us/docs/legdoc.cfm?URL=/docs/2004/acts/ACT114.HTM>

This act aligns Vermont's education law with the No Child Left Behind Act. Act # 114 updates some features of last year's legislation. It extends the provisions governing annual, as opposed to biennial, review of school progress, and extends the provisions on the education of the homeless. In order to make sense out of the structural conflict between how Vermont and NCLBA define the governance structure of schools, this act also makes individual school districts, which are responsible for running the schools, the Local Education Agency for the purpose of meeting school standards and accountability and leaving the supervisory unions as the responsible LEA for the purpose of receiving and distributing federal funds.

**Act # 117 (H. 629) An Act Relating to Bullying Prevention Policies**

<http://www.leg.state.vt.us/docs/legdoc.cfm?URL=/docs/2004/acts/ACT117.HTM>

This bill, as passed into law, does essentially four things.

First, it defines "bullying." It is a term already found in the statutes and this new definition will make these statutes easier to enforce, understand and gather related data.

Second, this act requires school officials to update their already-existing school discipline plans to include responses to bullying. Many school plans already address this issue directly and others do so indirectly.

Third, this act requires the Commissioner to update and distribute the model discipline plan. While there is specificity to what the model must include, schools are not required to adopt the model plan developed by the Commissioner.

Fourth, and finally, this act requires the Commissioner to gather data on bullying and report to the legislature in 2007 on implementation of the model plan portion of this law.

**Act # 121 (H. 767) An Act Relating to Capital Construction, State Bonding and the Department of Corrections**

<http://www.leg.state.vt.us/docs/legdoc.cfm?URL=/docs/2004/acts/ACT121.HTM>

Sec. 6(a) – Provides the sum of \$4,000,000 to the department of education for state aid for school construction. Of this total, the department may use up to \$40,000 to contract with the School Energy Management Program of the VSA to assist the department with the administration of energy-related school construction projects.

Sec. 6(b) – The sum of \$750,000 is appropriated to the Department of Buildings and General Services for construction at the Southeastern Vermont Career Education Center in Brattleboro.

Sec. 6(c) – The sum of \$375,000 is appropriated to the Department of Buildings and General Services for ongoing renovations at the Austine School (Holton Hall).

Sec. 6(d) – The sum of \$400,000 is appropriated to the DOE to assist with the purchase of educational program equipment for technical centers and comprehensive high schools.

Secs. 52-53 – Amends 16 VSA Section 3448(a)(9) – This is an amendment to school construction prioritization criteria.

Sec. 54 – Construction Aid for School Consolidation; Sunset – This provision clarifies the eligibility for school construction aid for consolidation projects. Act 121 limits aid to projects that are initiated “as an integral part of the formation of a joint contract or union district designed to serve the educational needs of the participating districts in a more cost effective manner.” This change is intended to support consolidation efforts at a level that will lead to substantive reductions in operational and administrative costs.

Sec. 55 – Provides for up to \$141,752 of the appropriations of 2003 to the Hannaford Technical Center for the purchase of a parcel of land in the Middlebury Industrial Park.

Sec. 56 – Champlain Valley Union High School District; Construction Aid Authorized – This provision authorizes 25% state aid in conjunction with the renovation project completed in the summer of 2002.

Sec. 57-58 – Energy Performance Contracting; Authorization; State Aid –Authorization is granted for school districts to use performance contracting as a method to undertake and fund capital improvements intended to address energy and operating efficiency in school buildings. Approved projects will be eligible for 20% state aid. This provision of law spells out specific requirements that must be met when utilizing performance contracting. Under these newly enacted provisions of law, a school district is authorized to enter into a performance contract for a period not to exceed 20 years providing that cost savings measures implemented under the contract “comply with all state aid and local building codes.”

Sec. 59 – This section addresses an increase in state aid to 90% of the approved cost of state-funded financial support for specific elements of school construction projects that make use of renewable energy sources.

**Act # 122 (H. 768) An Act Making Appropriations for the Support of Government –**  
<http://www.leg.state.vt.us/docs/legdoc.cfm?URL=/docs/2004/acts/ACT122.HTM>

Please refer to the separate budget review on the DOE web site prepared by Chief Financial Officer Bill Talbott.

**Act # 130 (S. 315) An Act Relating To Funding of Union and Unified Union School Districts**  
–  
<http://www.leg.state.vt.us/docs/legdoc.cfm?URL=/docs/2004/acts/ACT130.HTM>

This Act permits the homestead tax rate levied by municipalities to be separated into components derived from associated town, union or unified union school district tax rates. The Act also adds union and unified union districts to the definition of school district in the school funding chapter (133) of Title 16 so that these districts will now receive categorical grants, including special education aid, and the education spending grant from the education fund. Union districts will no longer need to assess costs to member town school districts.

**Act # 155 (H. 327) An Act Relating to Identity Theft**

<http://www.leg.state.vt.us/docs/legdoc.cfm?URL=/docs/2004/acts/ACT155.HTM>

Section 3 of this Act provides a new Title 9 VSA § 2480m that addresses limitations on use of social security numbers.

**Act # 157 (S. 227) An Act Relating to the Establishment of a Sex Offender Registry**

<http://www.leg.state.vt.us/docs/legdoc.cfm?URL=/docs/2004/acts/ACT157.HTM>

This act establishes a sex offender registry and appropriates \$50,000 in one-time money to the department of public safety to enact the informational web-page in accordance with this act.

**Act # 161 (H. 272) An Act Relating to Nutrition Policy in Vermont Schools**

<http://www.leg.state.vt.us/docs/legdoc.cfm?URL=/docs/2004/acts/ACT161.HTM>

This act provides definitions for the terms “physical activity program, physical education program, fitness program, nutrition and wellness program.”

Additionally, it calls for the Commissioner and the Department of Education to form an advisory council on comprehensive wellness to include at least three members associated with the health related field. The council’s mission is to assist the department of education in planning, coordinating, and encouraging wellness programs in the public schools.

The Commissioner is also required to supervise the preparation of nutrition and physical education curricula, prepare and continually update a list of school and community programs which have the potential to improve childhood wellness, establish and maintain a website which displays data from the Youth Risk Behavior Survey, research funding opportunities for schools and communities and create a process for schools to share with the Department of Health any data collected about the height and weight of students in grades K-6. The data may be reported on a countywide basis as long as it protects the privacy of individual students and the identity of participating schools.

The Department of Education is also directed to offer assistance to school districts or supervisory unions for teacher training in wellness programs.

The Commissioner of Education is also directed to collaborate with the Secretary of Agriculture and the Secretary of Human Services to write a model school fitness and nutrition policy to be made available to school districts on or before January 1, 2005.

The new law requires the Commissioner of Education to develop and implement a wellness grant program to help school communities establish wellness programs. Though this bill contains no financial appropriation, \$30,000 is directed to the Department of Education in the State budget for this purpose.

Additionally, the State budget creates one new position at the DOE and appropriates \$50,000 to fund this position for a partial fiscal year.

**Act # M – 14 (H. 775) An Act Relating to the Charter of the City of Burlington**  
<http://www.leg.state.vt.us/docs/legdoc.cfm?URL=/docs/2004/acts/ACTM014.HTM>

Sec. 3 of this Act amends Title 24 Appendix Chapter 3 and Section 168 of the Burlington City Charter regarding adoption of budgets. This amendment was necessary to make their charter work with the new education funding formula.

**Act # M – 16 (H. 774) An Act Relating to the Charter of the City of Rutland**  
<http://www.leg.state.vt.us/docs/legdoc.cfm?URL=/docs/2004/acts/ACTM016.HTM>

This Act states that the Rutland City voters may authorize the Rutland School commissioners to adopt annual general fund budgets without further voter approval, provided that the homestead tax rate in a year does not exceed \$.50 more than the adjusted equalized homestead rate as established by state officials pursuant to applicable law.

**Act # M – 17 (H. 769) An Act Relating to Approval of Amendment to the Bennington School District Charter**  
<http://www.leg.state.vt.us/docs/legdoc.cfm?URL=/docs/2004/acts/ACTM017.HTM>

This Act states that the Bennington School District shall not allow the attendance of sixth graders of the Bennington School District at the Mount Anthony Union District Middle School until authorized by a majority of the voters of the district by Australian ballot vote at a regular or special meeting.

**Resolution # R-406 (JRH 48) Joint Resolution Relating to Education**  
<http://www.leg.state.vt.us/docs/legdoc.cfm?URL=/docs/2004/acts/ACTR406.HTM>

This resolution, pertaining to childhood wellness, is to be sent to each municipal legislative body and to every Vermont school board.

**Resolution # R-442 (JRS 65) Joint Resolution Relating to Civics Education**  
<http://www.leg.state.vt.us/docs/legdoc.cfm?URL=/docs/2004/acts/ACTR442.HTM>

This resolution states that the legislative council may seek funds to develop and implement civics education programs, materials and activities that facilitate connections between legislators and Vermont's young people and maximize use of the State Capitol and its resources for the purpose of educating our future citizens and leaders about representing democracy.

This resolution also states that the legislative council may appoint an advisory committee consisting of educators and others who may be able to provide guidance and advice.

**Resolution # R-453 (JRH 53) Joint Resolution Authorizing the Legislative Council to Codify Educational Charters and Agreements as Title 16 Appendix of the Vermont Statutes Annotated**  
<http://www.leg.state.vt.us/docs/legdoc.cfm?URL=/docs/2004/acts/ACTR453.HTM>

This resolution will result in the publication of an appendix to Title 16 to include the charter for the University of Vermont and the charters and other formative documents establishing Vermont's school districts and supervisory unions.

## **Senate Resolution # 22**

<http://www.leg.state.vt.us/docs/legdoc.cfm?URL=/docs/2004/resolutn/SR0022.HTM>

This resolution, adopted unanimously by the Senate, condemns the use of the term “terrorist organization” to describe any American organization devoted to the welfare of our children (NEA). Furthermore, it calls upon the President of the United States and the Governor of Vermont to repudiate the inappropriate and inflammatory remark by the Secretary of Education, Rod Paige.

## **Senate Resolution # 23 - Resolution Urging Congress to Grant Waivers from the No Child Left Behind Act to States Whose Students Perform at a High Academic Level**

<http://www.leg.state.vt.us/docs/legdoc.cfm?URL=/docs/2004/resolutn/SR0023.HTM>

This resolution urges Congress to amend NCLB to include waivers for states whose systems of standards and accountability result in high student achievement.

## **The following are significant bills involving education that did not pass in 2004:**

### **S. 166 – An Act Relating to Early Education –**

<http://www.leg.state.vt.us/docs/legdoc.cfm?URL=/docs/2004/bills/senate/S-166.HTM>

This bill received significant review in the legislature during the past two years. Most of the deliberation took place in the Senate, where it was unanimously passed by the Committees on Education and Appropriations, prior to receiving unanimous approval by the full Senate. The bill eventually bogged down in the House Education Committee at the end of the 2004 session. The issues raised by S. 166 were seen as too significant to be resolved before adjournment.

### **H. 511 – An Act Relating to Public School Choice –**

<http://www.leg.state.vt.us/docs/legdoc.cfm?URL=/docs/2004/bills/intro/H-511.HTM>

This bill was reviewed by the House Education Committee, but did not receive majority support of the committee members. There was a subsequent attempt to relieve the committee of the bill by the full House of Representatives, which failed by approximately a two to one margin.

### **H. 73 – Students on School Boards –**

<http://www.leg.state.vt.us/docs/legdoc.cfm?URL=/docs/2004/bills/house/H-073.HTM>

This bill, which would have made it possible for students to have voting positions on school boards, was voted favorably out of the House Education Committee and the full House of Representatives. The Senate Education Committee voted to oppose the bill by a three to two margin.